

REMARKS

In the Office Action, the Examiner has indicated that an election is required under 35 U.S.C. §121. More specifically, the Examiner has taken the position that three (3) species of invention are claimed as depicted in the figures as follows:

Species A – Figures 1-5;

Species B – Figures 6-7, 9; and

Species C – Figure 10.

In response to the Examiner's election requirement, applicants hereby provisionally elect Species B, depicted in Figures 6-7 and 9. However, applicants respectfully disagree with the Examiner that no pending claim is generic to the species identified by the Examiner. Specifically, applicants respectfully submit that claim 1 reads on all three species. For the Examiner's convenience, claim 1 is reprinted below.

1. A tip cap for sealingly covering the distal end of a syringe comprising:

a base portion having an upper surface and a lower surface, a cylinder with a non-circular cross-section extending from said upper surface, and a hollow shaft extending from said lower surface having connection means for attaching to a syringe barrel.

Applicants respectfully submit that each of the limitations recited by claim 1 are found in the three species identified by the Examiner. Thus, claim 1 is generic to those species. Applicants thus respectfully request that the Examiner reconsider the restriction requirement and the Examiner's position that three species are claimed in the present invention.

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Should applicants' point be unpersuasive to the Examiner, and as noted above, applicants provisionally elect Species B, depicted in Figures 6-7 and 9. Upon entry of this amendment, and should applicants' point be unpersuasive, claims 1, 2, 5, 8, 9, 11, 12, 14, 15, 16, 19, 22, 23, 24, 28, 29 and 30.

Applicant hereby authorizes the Commissioner to charge the fees necessary in connection with this amendment, including those fees required in connection with applicants' Petition for Extension of Time, and any other fees necessary in connection with this application, to Deposit Account Number 02-1666.

Any questions concerning this application or amendment may be directed to the undersigned agent of applicant.

Respectfully submitted,

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